REMARKS

I. Introduction

Claims 1 to 18 and 69 to 87 stand rejected. Claims 19 to 68 were previously withdrawn. Claims 3,4,5,7,12, and 76 were amended to correct typographical errors. New claims 88 to 90 have been added. Claims 1 to 18 and 69 to 90 are presently pending. A formalities amendment was made to the specification. No new matter has been added.

In view of the foregoing amendments and the following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration of the present application is respectfully requested.

II. Objection to the Specification

The Abstract was objected to for its use of the term "disclosed." The Abstract is currently amended by replacing the term "disclosed" with "provided." No new matter has been added. Therefore, it is respectfully submitted that the objection has been mooted and withdrawal of the objection is requested.

III. Rejection of Claims 1 to 4, 10, 11, 14, 15, 69, 74, 78 and 82 Under 35 U.S.C. § 103(a)

Claims 1 to 4, 10, 11, 14, 15, 69, 74, 78 and 82 were rejected under 35 U.S.C. § 103(a) over the combination of U.S. Patent No. 5,471,039 ("Irwin") and U.S. Patent No. 5,288,976 ("Citron"). It is respectfully submitted that the proposed combination of Irwin and Citron does not render unpatentable the present claims for at least the following reasons.

To establish a _prima facie_ case of obviousness, the Office Action must demonstrate three criteria: (1) there must be some suggestion or motivation to one of ordinary skill in the art to modify a reference or to combine reference teachings; (2) there must be a reasonable expectation of success; and (3) the prior art reference (or references when combined) must teach or suggest each and every limitation in the claim under examination. In re Vaeck, 947 F.2d 488 (Fed. Cir. 1991).

Claim 1 recites:

> _1._   _A method for validating a ticket associated with a game of chance, comprising:_
> _reading a barcode encoded with an instruction and data, wherein the barcode is included on the ticket;_

> *based on the encoded instruction, sending the data and a trigger to*
> *execute a check validity program to validate the data; and*
> > *responsive to a determination of the data being valid by the check*
> *validity program, validating the ticket.*

The Office Action admits that Irwin lacks the recited bar code encoded with an instruction and data, and sending the data based on the encoded instruction. Office Action at 3. Moreover, Irwin does not teach reading a barcode encoded instruction which causes the sending of a trigger to execute a check validity program. To correct the deficiencies of Irwin, the Office Action proposes a combination with Citron.

However, although Citron appears to generally describe barcodes including some sort of an instruction code, Applicant respectfully submits that Citron also does not teach or suggest reading a barcode encoded instruction which causes the sending of a trigger to execute a check validity program, as recited in Applicant's claim 1. This feature is also not identified in the Office Action as being present in Citron. Accordingly, the combination of Citron plus Irwin cannot teach or suggest the recited limitation "based on the encoded instruction, sending the data and a trigger to execute a check validity program to validate the data." Since all the limitations of claim 1 are not found in the proposed combination, the proposed combination cannot be the basis for a prima facie case of obviousness. Accordingly, Applicant respectfully requests that the rejection be withdrawn.

Moreover, the proposed combination is a pure hindsight reconstruction and therefore improper. To reject, the Examiner must find a suggestion to combine the references in the prior art that is "clear and particular". *In re Dembiczak*, 50 U.S.P.Q.2d 1614 (Fed. Cir. 1999). The requirement is for "actual evidence" of the proposed motivation to combine. *Teleflex, Inc. v. Ficosa North America Corp.*, 299 F.3d 1313, 1334, 63 USPQ2d 1374 (Fed. Cir. 2002). The Office Action states an ordinary artisan would make the proposed combination:

> "because a plurality of tickets may utilize different methods of validation
> according to the type of game it is, and therefore, in order to provide the
> correct validation method, it necessary [sic] for the ticket to provide an
> instruction that will lead to a specified validation method. Such modification
> ensures that the ticket is validated under the appropriate validation method,
> and therefore, provides an accurate result."

Office Action at 4. No support for this alleged motivation is provided from any cited reference. Neither of the cited references discuss having multiple validation programs and choosing from amongst them based on the information read – if anything this concept has

been gleaned directly from Applicant's disclosure, not the cited art. Thus, the rejection uses Applicant's disclosure and claim as a map to pick and choose features and produce Applicant's claimed invention. For at least this additional reason, Applicant respectfully submits that the rejection is improper and should be withdrawn.

Claims 2 to 4, and 74 depend from claim 1 and therefore are not rendered obvious by the combination of Irwin and Citron. In addition, the combination of Irwin and Citron does not teach or suggest all of the features of the dependent claims. Claims 2 to 4, and 74 recite:

2. The method of claim 1, wherein the data is an identifier associated with the ticket.

3. The method of claim 1, further comprising:

processing the data using the executed check validity program to determine if the data is valid.

4. The method of claim 1, further comprising:

based on the encoded instruction, connecting to a remote terminal via a communications network, wherein the check validity program is executed at the remote terminal.

74. The method of claim 1, further comprising:

interpreting the instruction with an interpreter.

As to claim 2, neither Irwin nor Citron teach or suggest an identifier associated with a ticket that is encoded in a bar code including an encoded instruction. Neither do Irwin or Citron teach or suggest processing data read from a bar code, including an encoded instruction, to determine if the data is valid, as is recited in claim 3. As to claim 4, Irwin and Citron do not teach connecting to a remote terminal, where a check validity program is executed, based on an instruction encoded in a bar code. Finally, neither Irwin nor Citron teach or suggest interpreting an instruction encoded in a bar code associated with a ticket. Therefore, the proposed combination of Irwin and Citron does not teach or suggest all of the features of claims 2 to 4.

Claim 10 recites a system for validating a ticket:

10. A system for validating a ticket associated with a game of chance, the system comprising:

a local terminal;

a device coupled to the terminal to read a barcode encoded with an instruction and data, wherein the barcode is included on the ticket;

a remote terminal to receive the data and a trigger from the local terminal based on the encoded instruction, wherein the trigger is to execute a check validity program at the remote terminal and responsive to a determination of the data being valid by the check validity program, the remote terminal to send a validation signal to the local terminal and in response to the validation signal, the local terminal to validate the ticket.

The system includes a "remote terminal to receive the data and a trigger from the local terminal based on the encoded instruction." Nothing in Irwin or Citron teaches or suggests a remote terminal which receives data and a trigger from a local terminal based on an instruction encoded in a barcode on a ticket, or that such a terminal executes a check validity program because of the trigger. Therefore, the proposed combination of Irwin and Citron does not render obvious claim 10. Moreover, the proposed combination is improper for reasons similar to those given above for claim 1.

Claims 11, 14, 15, and 78 depend from claim 10 and therefore are not rendered obvious by the combination of Irwin and Citron for the same reasons stated above. In addition claims 11, 14, and 15 recite additional features as follows:

11. The system of claim 10, wherein the data is an identifier associated with the ticket.

14. The system of claim 10, wherein the remote terminal is to process the data using the executed check validity program to determine if the data is valid.

15. The system of claim 10, wherein the device coupled to the terminal to read the barcode encoded with an instruction is a barcode scanner.

78. The system of claim 10, further comprising:
an interpreter configured to receive and interpret the instruction.

As to claim 11, Irwin does not suggest data encoded in a bar code that is associated with a ticket and Citron does not suggest a ticket at all. In addition, Irwin does not suggest processing data on a remote terminal that is encoded in a bar code, as is recited in claim 14. Similarly, Citron does not suggest executing a check validity program on a remote terminal to

determine if data encoded on a bar code associated with a ticket is valid. As to claim 15, Irwin and Citron fail to teach or suggest a barcode scanner coupled to a local terminal to read a barcode encoded with an instruction and data, where the data is received by a remote terminal based on the instruction. Finally, neither Irwin nor Citron teach or suggest an interpreter configured to receive an instruction encoded in a bar code associated with a ticket, as recited in claim 78.

Claim 69 recites a method for validating a ticket which includes "reading a barcode encoded with an instruction and data" and validating a ticket "responsive to the determination that the instruction has been processed successfully." Neither Irwin nor Citron teaches or suggests determining whether an instruction read from a barcode is processed successfully, or validating a ticket based on the successful processing of such an instruction. As related above, Irwin does not suggest encoding instructions in barcodes, therefore it cannot suggest determining whether execution of such an instruction was successful. In addition, nothing in Citron suggests determining whether execution of an instruction was successful. Therefore, Citron cannot suggest taking any action responsive to such a determination. Moreover, Applicant respectfully submits the proposed combination of Irwin and Citron is improper, for reasons similar to those discussed above with respect to claim 1.

Claim 82, depends from claim 69 and therefore is not rendered obvious by the proposed combination of Irwin and Citron for at least the same reasons as those given above for claim 69. In addition, claim 82 recites interpreting the instruction with an interpreter. Neither, Irwin and Citron do not teach or suggest this additional features of claim 82, because neither, Irwin nor Citron teach or suggest interpreting an instruction encoded in a bar code associated with a ticket.

For at least the forgoing reasons, it is respectfully submitted that the proposed combination of Irwin and Citron does not render obvious any of claims 1 to 4, 10, 11, 14, 15, 69, 74, 78, and 82.

IV.   Rejection of Claims 5, 6, 12 and 13 Under 35 U.S.C. § 103(a)

Claims 5, 6, 12 and 13 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of U.S. Patent No. 5,471,039 ("Irwin"), U.S. Patent No. 5,288,976 ("Citron"), and U.S. Patent No. 6,251,017 ("Leason"). It is respectfully submitted that the proposed combination of Irwin, Citron, and Leason does not render unpatentable the present claims for at least the following reasons.

Claims 5 and 6 ultimately depend from and therefore include all of the limitations of claim 1, while claims 12 and 13 ultimately depend from claim 10. As set forth above in support of the patentability of claims 1 and 10, the combination of Irwin and Citron does not disclose or suggest all of the limitations of either claim 1 or claim 10. Leason is not relied upon for disclosing the limitations of claims 1 and 10 not disclosed or suggested by the combination of Irwin and Citron. Indeed, it is respectfully submitted that Leason does not disclose or suggest the limitations of claims 1 and 10 not disclosed or suggested by the combination of Irwin and Citron. It is therefore respectfully submitted that the combination of Irwin, Citron and Leason does not render unpatentable claims 5 and 6 which ultimately depend from claim 1; nor does the combination render unpatentable claims 12 and 13 which ultimately depend from claim 10.

Moreover, the proposed combination of Irwin, Citron, and Leason fails to teach or suggest all of the additional features recited in claims 5, 6, 12, and 13. Those claims read as follows:

5. The method of claim 1, further comprises:

based on the encoded instruction, connecting to a web site via a communications network, wherein the check validity program is executed at the web site.

6. The method of claim 5, wherein the communications network includes an Internet.

12. The system of claim 10, further comprises:

a communications network, wherein the local terminal is coupled to the remote terminal via the communications network.

13. (Original) The system of claim 12, wherein the communications network includes an Internet.

As to claims 5 and 6, nothing in either Irwin, Citron, or Leason teaches or suggests connecting to a web site **based** on an instruction encoded in a bar code associated with a ticket. Similarly, as to claims 12 and 13, the references also do not teach or suggest a remote terminal, coupled to a local terminal over a communications network, which receives data and a trigger from that local terminal **based** on an instruction encoded in a bar code included on a ticket.

For all of the forgoing reasons it is respectfully submitted that the proposed combination of Irwin, Citron, and Leason does not render obvious any of claims 5, 6, 12, and 13.

V.   Rejection of Claim 7 Under 35 U.S.C. § 103(a)

Claim 7 was rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of U.S. Patent No. 5,471,039 ("Irwin"), U.S. Patent No. 5,288,976 ("Citron"), and U.S. Patent No. 6,340,331 ("Saunders"). It is respectfully submitted that the proposed combination of Irwin, Citron, and Saunders does not render unpatentable the present claim for at least the following reasons.

Claim 7 depends from and therefore includes all of the limitations of claim 1. As set forth above in support of the patentability of claim 1, the combination of Irwin and Citron does not disclose or suggest all of the limitations of claim 1. Saunders is not relied upon for disclosing the limitations of claim 1 not disclosed or suggested by the combination of Irwin and Citron. Indeed, it is respectfully submitted that Saunders does not disclose or suggest the limitations of claim 1 not disclosed or suggested by the combination of Irwin and Citron It is therefore respectfully submitted that the combination of Irwin, Citron, and Saunders does not render unpatentable claim 7 which depends from claim 1.

Moreover, claim 7 recites:

7. The method of claim 1, further comprises:

if the data is determined to be invalid by the check validity program, indicating that the ticket is invalid.

Nothing in either Irwin, Citron, or Saunders teaches or suggests a method which indicates that a ticket is invalid based on a validity program executed based on data and a trigger sent because of an instruction encoded in a bar code on a ticket.

For all of the forgoing reasons it is respectfully submitted that the proposed combination of Irwin, Citron, and Saunders does not render obvious claim 7.

VI.   Rejection of Claims 8, 9, 16, 17, 18, 70 and 71 Under 35 U.S.C. § 103(a)

Claims 8, 9, 16, 17, 18, 70 and 71 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of U.S. Patent No. 5,471,039 ("Irwin"), U.S. Patent No. 5,288,976 ("Citron"), and U.S. Patent No. 5,337,358 ("Axelrod "). It is respectfully

submitted that the proposed combination of Irwin, Citron, and Axelrod does not render unpatentable the present claims for at least the following reasons.

Claims 8 and 9 ultimately depend from and therefore include all of the limitations of claim 1. Similarly, claims 16 to 18 ultimately depend from claim 10 and claims 70 and 71 ultimately depend from claim 69. As set forth above in support of the patentability of claims 1, 10, and 69, the combination of Irwin and Citron does not disclose or suggest all of the limitations of claims 1, 10, and 69. Axelrod is not relied upon for disclosing the limitations of claims 1, 10, and 69 not disclosed or suggested by the combination of Irwin and Citron Indeed, it is respectfully submitted that Axelrod does not disclose or suggest the limitations of claims 1, 10, and 69 not disclosed or suggested by the combination of Irwin and Citron. It is therefore respectfully submitted that the combination of Irwin, Citron, and Axelrod does not render unpatentable claims 8, 9, 16, 17, 18, 70 and 71.

VII.   Rejection of Claims 72, 73, 75 to 77, 79 to 81 and 83 Under 35 U.S.C. § 103(a)

Claims 72, 73, 75 to 77, 79 to 81 and 83 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of U.S. Patent No. 5,471,039 ("Irwin"), U.S. Patent No. 5,288,976 ("Citron"), and U.S. Patent No. 6,915,271 ("Meyer"). It is respectfully submitted that the proposed combination of Irwin, Citron, and Meyer does not render unpatentable the present claims for at least the following reasons.

Claims 72, 73, and 75 ultimately depend from and therefore include all of the limitations of claim 1. Similarly, claims 76, 77, and 79 ultimately depend from claim 10 and claims 80, 81, and 83 ultimately depend from claim 69. As set forth above in support of the patentability of claims 1, 10 and 69, the combination of Irwin and Citron does not disclose or suggest all of the limitations of claims 1, 10, and 69. Meyer is not relied upon for disclosing the limitations of claims 1, 10, and 69 not disclosed or suggested by the combination of Irwin and Citron. Indeed, it is respectfully submitted that Meyer does not disclose or suggest the limitations of claims 1, 10, and 69 not disclosed or suggested by the combination of Irwin and Citron.

In addition, as explained above, the Office Action failed to find a suggestion to combine the Irwin and Citron references in the prior art that is "clear and particular." The Office Action also fails to provide such a suggestion for the combination of Irwin, Citron, and Meyer. The Office Action makes only the statement, unsupported by the references, that:

"[I]t would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to integrate the teachings of Meyer to the teachings of Irwin as modified by Citron because different users can utilize one program on the internet regardless of the user's computer platform due to the fact that the implementation of the Java Virtual Machine provides the capability of running a program on any platform." Office Action at 8.

However, nothing in any of the references suggests that a Java program should be encoded on a ticket bar code, or in any bar code for that matter. The instructions generally described in Citron is a single simple choice based on Citron's pre-coded selections. Nothing in Citron, or anything in Meyer or Irwin, teach or suggest that an entire Java program should be encoded in a ticket barcode, let alone a Java program used to check ticket validity. The only source for this proposed combination is Applicant's own disclosure. And the proposed combination, based on using Applicant's disclosure to pick and choose elements from the cited references, is not a proper basis for a <u>prima facie</u> case of obviousness.

In addition, nothing in either Irwin, Citron, or Meyer teaches or suggests a program or virtual machine instruction encoded in a bar code on a ticket and, therefore, cannot suggest using a virtual machine to execute an instruction encoded in such a bar code. Claims 72, 73, 76, 77, 78, 79, 81, all include a virtual machine that executes an instruction encoded in a bar code:

> *72. The method of claim 1, further comprising:*
>> *executing the instruction with a virtual machine.*
> *73. The method of claim 72, wherein the instruction is a Java virtual machine instruction and the virtual machine is a Java virtual machine.*
> *76. The system of claim 10, further comprising:*
>> *a virtual machine configured to receive and execute the instruction.*
> *77. The system of claim 76, wherein the virtual machine is a Java virtual machine and the instruction is a Java virtual machine instruction.*
> *78. The system of claim 10, further comprising:*
>> *an interpreter configured to receive and interpret the instruction.*
> *79. The system of claim 10, further comprising:*
>> *a compiler configured to receive and compile the instruction.*

80. The method of claim 69, further comprising:

   executing the instruction on a virtual machine.

81. The method of claim 80, wherein the virtual machine is a Java virtual machine and the instruction is Java virtual machine instruction.

Nothing in the cited references remotely teaches or suggests putting Java or any other sort of virtual machine instructions into a bar code on a ticket. Therefore, it is respectfully submitted that the proposed combination of Irwin, Citron, and Meyer does not render obvious claims 72, 73, 76, 77, 78, 79, 80, and 81.

VIII.   Rejection of Claims 84 to 87 Under 35 U.S.C. § 103(a)

Claims 84 to 87 were rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of U.S. Patent No. 5,471,039 ("Irwin"), U.S. Patent No. 5,288,976 ("Citron"), and U.S. Patent No. 6,619,543 ("Smith"). It is respectfully submitted that the proposed combination of Irwin, Citron, and Smith does not render unpatentable the present claims for at least the following reasons.

Claims 84 to 87 ultimately depend from and therefore include all of the limitations of claim 1. As set forth above in support of the patentability of claim 1, the combination of Irwin and Citron does not disclose or suggest all of the limitations of claim 1. Smith is not relied upon for disclosing the limitations of claim 1 not disclosed or suggested by the combination of Irwin and Citron. Indeed, it is respectfully submitted that Smith does not disclose or suggest the limitations of claim 1 not disclosed or suggested by the combination of Irwin and Citron. It is therefore respectfully submitted that the combination of Irwin, Citron, and Smith does not render unpatentable claims 84 to 87.

In addition, as explained above, the Office Action failed to find a suggestion to combine the Irwin and Citron references in the prior art that is "clear and particular." The Office Action also fails to provide such a suggestion for the combination of Irwin, Citron, and Smith. The Office Action makes only the statement, unsupported by the references, that:

> *"[I]t would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to integrate the teachings of Smith to the teachings of Irwin as modified by Citron because the bar code including the URL data element can be remotely located from the validating source, and therefore, the ticket can be validated anywhere in the country or world in a fast manner."* Office Action at 9.

However, nothing in any of the cited references teaches a URL or network address should be placed in an encoded form on a ticket, in order to properly direct an attempt to validate the ticket to the correct address for ticket validation. This feature come only from Applicant's own disclosure.

Finally, nothing in the cited references teaches or suggests choosing a network server or a URL type address based on a instruction encoded in a barcode on a ticket, as is recited in both claims 84 and 87:

> *84. The method of claim 1, further comprising:*
>
> > *based on the encoded instruction, choosing a network server;*
> >
> > *communicating with the chosen network server via a communications network;*
> >
> > *executing the check validity program at the chosen network server.*
>
> *87. The method of claim 86, wherein the network address is an Internet url.*

Therefore, it is respectfully submitted that, for at least the forgoing reasons, claims 84 and 87 are not rendered obvious by the proposed combination of Irwin, Citron, and Smith.

VIII. Rejection of Claims 84 to 87 Under 35 U.S.C. § 103(a)

New claims 88-90 have been added to the present application. The claims are supported by the originally filed specification. These claims depend respectively from claims 1, 10, and 69. They therefore should be allowable for at least the reasons given above for their respective parent claims. Moreover, each of these claims address a multiple instruction program encoded in the bar code on the ticket, which is executed when the ticket is read. This feature is not taught or suggested in the cited art and is believed to further distinguish the claimed invention from the cited art.

CONCLUSION

In light of the foregoing, it is respectfully submitted that all of the presently pending claims are in condition for allowance. Prompt reconsideration and allowance of the present application are therefore earnestly solicited. The Commissioner is authorized to charge any fee arising in connection with the filing of this paper, including any necessary extension of time, to the deposit account of **Kenyon & Kenyon LLP**, Deposit Account No. **11-0600**. The Examiner is cordially invited to telephone the undersigned if any issue or question arises with respect to the present application.

Respectfully submitted,
KENYON & KENYON LLP

Date: ___Feb. 6, 2007___

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